



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-878; C-580-879]

Certain Corrosion-Resistant Steel Products from Republic of Korea: Affirmative Preliminary Determination of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that imports of certain corrosion-resistant steel products (CORE), produced in the Socialist Republic of Vietnam (Vietnam) using hot-rolled steel (HRS) and/or cold-rolled steel (CRS) flat products manufactured in the Republic of Korea (Korea), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CORE from Korea.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Chien-Min Yang, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5484.

SUPPLEMENTARY INFORMATION:

Background

Certain domestic interested parties, ArcelorMittal USA LLC, Nucor Corporation, United States Steel Corporation, Steel Dynamics, Inc. and California Steel Industries (collectively, the

petitioners) filed an allegation¹ that imports of CORE from Vietnam made from HRS and/or CRS sourced from the Korea and exported to the United States as CORE from Vietnam are circumventing the *Korea CORE Orders*.² In their allegation, the petitioners requested that Commerce initiate anti-circumvention inquiries pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(h), to determine whether the importation of the Korean-origin HRS or CRS substrate for completing into CORE in Vietnam and subsequent sale of that CORE to the United States constitutes circumvention of the *Korea CORE Orders*. In their allegation, the petitioners requested Commerce initiate anti-circumvention inquiries pursuant to section 781(b) of the Act and 19 CFR 351.225(h), to determine whether the importation of the Korean-origin HRS or CRS substrate for completion into CORE in Vietnam and subsequent sale of that CORE to the United States constitutes circumvention of the *Korea CORE Orders*.

On August 2, 2018, Commerce published the notice of initiation of anti-circumvention inquiries on imports of CORE from Vietnam.³ For a complete description of the events that followed the initiation of these inquiries, see the Preliminary Decision Memorandum.⁴ A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this

¹ See Petitioners' letter, "Certain Corrosion-Resistant Steel Products from Korea: Request for Circumvention Ruling," dated June 12, 2018 (Circumvention Ruling Request).

² See *Certain Corrosion-Resistant Steel Flat Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Duty Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016). The "all others rate" was subsequently amended as the result of litigation. See *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Notice of Court Decision Not in Harmony with Final Determination of Investigation and Notice of Amended Final Results*, 83 FR 39054 (August 8, 2018); see also *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea, and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (collectively, *Korea CORE Orders*).

³ See *Certain Corrosion-Resistant Steel Products from the Republic of Korea and Taiwan: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 37785 (August 2, 2018) (*Initiation Notice*).

⁴ See Memorandum, "Decision Memorandum for the Preliminary Determination in the Anti-Circumvention Inquiry of Certain Corrosion-Resistant Steel Products from the Republic of Korea," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.⁵ If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day.

Scope of the Orders

The products covered by these orders are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. For a complete description of the scope of the orders, *see* the Preliminary Decision Memorandum.

Scope of the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover CORE produced in Vietnam from HRS or CRS substrate input manufactured in Korea and subsequently exported from Vietnam to the United States (merchandise under consideration). This preliminary ruling applies to all shipments of

⁵ *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 29, 2019. All deadlines in this segment have been extended by 40 days.

merchandise under consideration on or after the date of initiation of these inquiries. Importers and exporters of CORE produced in Vietnam using (1) HRS manufactured in Vietnam or third countries, (2) CRS manufactured in Vietnam using HRS produced in Vietnam or third countries, or (3) CRS manufactured in third countries, must certify that the HRS or CRS processed into CORE in Vietnam did not originate in Korea, as provided for in the certifications attached to this *Federal Register* notice. Otherwise, their merchandise may be subject to antidumping and countervailing duties if Commerce makes affirmative final determination in these inquiries.

Methodology

Commerce is conducting these anti-circumvention inquiries in accordance with section 781(b) of the Act. Because certain interested parties did not cooperate to the best of their abilities in responding to Commerce's requests for information, we have based parts of our preliminary determination on the facts available, with adverse inferences, pursuant to sections 776(a) and (b) of the Act. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Finding

As detailed in the Preliminary Decision Memorandum, we preliminarily determine that CORE produced in Vietnam from HRS and/or CRS sourced from Korea is circumventing the *Korea CORE Orders*. We therefore preliminarily determine that it is appropriate to include this merchandise within the *Korea CORE Orders* and to instruct U.S. Customs and Border Protection (CBP) to suspend any entries of CORE from Vietnam produced from HRS and/or CRS from Korea.

Suspension of Liquidation

As stated above, Commerce has made a preliminary affirmative finding of circumvention of the *Korea CORE Orders* by exports to the United States of CORE produced by any Vietnamese company from Korean-origin HRS and/or CRS input. In accordance with 19 CFR 351.225(1)(2), Commerce will direct CBP to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CORE produced in Vietnam, as appropriate, that were entered, or withdrawn from warehouse, for consumption on or after August 2, 2018, the date of initiation of the anti-circumvention inquiries. The suspension of liquidation instructions will remain in effect until further notice.

CORE produced in Vietnam from HRS and/or CRS that is not of Korean origin is not subject to these inquiries. Therefore, cash deposits pursuant to the *Korea CORE Orders* are not required for such merchandise. However, CORE produced in Vietnam from HRS and/or CRS from China is subject to the AD/CVD orders on CORE from China,⁶ and CORE produced in Vietnam from HRS and/or CRS from Taiwan has preliminarily been found to be circumventing the AD order on CORE from Taiwan.⁷ Imports of such merchandise are also subject to certification requirements and cash deposits may be required. If an importer imports CORE from Vietnam and claims that the CORE was not produced from HRS and/or CRS substrate manufactured in Korea, in order not to be subject to *Korea CORE Orders* cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in Appendix II. Exporters of CORE produced from non-Korean-origin

⁶ See *Certain Corrosion-Resistant Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23895 (May 23, 2018) (*CORE China Circumvention Final*).

⁷ See Federal Register notice, "*Certain Corrosion-Resistant Steel Products from Taiwan: Affirmative Preliminary Determination of Anti-Circumvention Inquiry on the Antidumping Duty Order*," dated concurrently with this notice.

HRS and/or CRS substrate must prepare and maintain an Exporter Certification and documentation supporting the Exporter Certification (*see* Appendix IV). In addition, importers of such CORE must prepare and maintain an Importer Certification (*see* Appendix III) as well as documentation supporting the Importer Certification. Besides the Importer Certification, the importer must also maintain a copy of the Exporter Certification (*see* Appendix IV) and relevant supporting documentation from the exporter of CORE who did not use the Korean-origin HRS and/or CRS substrate.

In the situation where no certification is provided for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the *CORE China Circumvention Final* rates (*i.e.*, the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for the China all-others rate (39.05 percent)).⁸ This is to prevent evasion, given that the *CORE China Circumvention Final* rates are higher than the AD and CVD rates established for CORE from Korea and Taiwan. In the situation where a certification is provided for the AD/CVD orders on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 8.31 percent and 1.19 percent, respectively) applicable to the AD/CVD orders on CORE from Korea.⁹ This is to prevent evasion, given that the AD and CVD rates established for CORE from Korea are higher than the AD rate established for CORE from Taiwan.

⁸ See *CORE China Circumvention Final*, 83 FR at 23896.

⁹ See *Korea CORE Orders*.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than thirty days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁰ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in these anti-circumvention inquiries are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington DC, 20230 at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

Commerce, consistent with section 781(e) of the Act, has notified the U.S. International Trade Commission (ITC) of these preliminary determinations to include the merchandise subject to these anticircumvention inquiries within the *Korea CORE Orders*. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the

¹⁰ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

subject merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

Notification to Interested Parties

This determination is issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: June 28, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Orders
- IV. Scope of the Anti-Circumvention Inquiries
- V. Period of Inquiries
- VI. Statutory Framework
- VII. Use of Facts Available with an Adverse Inference
- VIII. Anti-Circumvention Determination
- IX. Country-Wide Determination
- X. Certification for Not Using Korean-Origin HRS and/or CRS
- XI. Recommendation

Appendix II

Certification Requirements

If an importer imports certain corrosion-resistant steel products (CORE) from the Socialist Republic of Vietnam (Vietnam) and claims that the CORE was not produced from hot-rolled steel and/or cold-rolled steel substrate (substrate) manufactured in Korea, the importer is required to complete and maintain the importer certification attached hereto as Appendix III and all supporting documents. Where the importer uses a broker to facilitate the entry process, it should obtain the entry number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

The exporter is also required to complete and maintain the exporter certification attached hereto as Appendix IV, and is further required to provide the importer a copy of that certification and all supporting documentation.

For shipments and/or entries on or after August 2, 2018 through July 18, 2019 for which certifications are required, importers and exporters should complete the required certification within 30 days of the publication of this notice in the *Federal Register*. Accordingly, where appropriate, the relevant bullet in the certification should be edited to reflect that the certification was completed within the time frame specified above. For example, the bullet in the importer certification that reads: “This certification was completed at or prior to the time of Entry,” could be edited as follows: “The imports referenced herein entered before July 19, 2019. This certification was completed on mm/dd/yyyy, within 30 days of the *Federal Register* notice publication of the preliminary determination of circumvention.” Similarly, the bullet in the exporter certification that reads, “This certification was completed at or prior to the time of shipment,” could be edited as follows: “The shipments/products referenced herein shipped

before July 19, 2019. This certification was completed on mm/dd/yyyy, within 30 days of the *Federal Register* notice publication of the preliminary determination of circumvention. For such entries/shipments, importers and exporters each have the option to complete a blanket certification covering multiple entries/shipments, individual certifications for each entry/shipment, or a combination thereof.

For shipments and/or entries on or after July 19, 2019, for which certifications are required, importers should complete the required certification at or prior to the date of Entry and exporters should complete the required certification and provide it to the importer at or prior to the date of shipment.

The importer and Vietnamese exporter are also required to maintain sufficient documentation supporting their certifications. The importer will not be required to submit the certifications or supporting documentation to U.S. Customs and Border Protection (CBP) as part of the entry process at this time. However, the importer and the exporter will be required to present the certifications and supporting documentation, to Commerce and/or CBP, as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. The importer and exporter are required to maintain the certifications and supporting documentation for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries.

In the situation where no certification is provided for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the CORE China Circumvention Final rates (*i.e.*, the AD rate established for the China-wide entity (199.43 percent) and the CVD

rate established for China all-others rate (39.05 percent)). In the situation where a certification is provided for the AD/CVD orders on CORE from China, but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD and CVD all-others rates (*i.e.*, 8.31 percent and 1.19 percent, respectively) applicable to the AD/CVD orders on CORE from Korea.

Appendix III

IMPORTER CERTIFICATION

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF IMPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the corrosion-resistant steel products produced in Vietnam that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, the importer should have "direct personal knowledge" of the importation of the product (*e.g.*, the name of the exporter) in its records;
- I have personal knowledge of the facts regarding the production of the imported products covered by this certification. "Personal knowledge" includes facts obtained from another party, (*e.g.*, correspondence received by the importer (or exporter) from the producer regarding the source of the input used to produce the imported products);
- These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled steel and/or cold-rolled steel substrate produced in Taiwan;
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, *etc.*) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain and provide a copy of the exporter's certification and supporting records, upon request, to CBP and/or Commerce;
- I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;
- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:
 - o suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and

- o the requirement that the importer post applicable antidumping duty (AD) cash deposits equal to the rates as determined by Commerce;
- I understand that agents of the importer, such as brokers, are not permitted to make this certification;
- This certification was completed at or prior to the time of Entry; and
- I am aware that U.S. law (including, but not limited to, 18 U.S.C. §1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL

TITLE

DATE

Appendix IV

EXPORTER CERTIFICATION

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL'S NAME HERE} and I am an official of {INSERT NAME OF EXPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the production and exportation of the corrosion-resistant steel products that were sold to the United States under invoice number(s) INSERT INVOICE NUMBER(S). "Direct personal knowledge" refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have "direct personal knowledge" of the producer's identity and location.
- These corrosion-resistant steel products produced in Vietnam do not contain hot-rolled steel and/or cold-rolled steel substrate produced in Taiwan;
- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, *etc.*) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {INSERT NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer by the time of shipment;
- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);
- I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or Commerce;
- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:
 - suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and
 - the requirement that the importer post applicable antidumping duty (AD) cash deposits equal to the rates as determined by Commerce;
- This certification was completed at or prior to the time of shipment;
- I am aware that U.S. law (including, but not limited to, 18 U.S.C. §1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL

TITLE

DATE

[FR Doc. 2019-14694 Filed: 7/9/2019 8:45 am; Publication Date: 7/10/2019]